

Categorical Exclusion (CX) Right-of-Way for a Dirt Access Road

Background

NEPA NUMBER: DOI-BLM-NV-S010-2014-0041-CX

As the Las Vegas Valley grows, the need for communication sites increases and access to these sites needs to be obtained. Crown Castle (CC) has requested a right-of-way (ROW) to access their communication site located on private land.

BLM Office:

Bureau of Land Management
Las Vegas Field Office
4701 N. Torrey Pines Drive
Las Vegas, Nevada 89130

LLNVS01000

Lease/Serial/Case File No.:

N-89670

Proposed Action Title/Type:

ROW for a dirt road on public lands.

Location of Proposed Action:

LOCATION AND LEGAL DESCRIPTION:

Located in northwest Las Vegas, Nevada at the end of North Jones Blvd and west of La Concha Dr.

The Legal Description is:

Mount Diablo Meridian, Nevada T., 19 S., R. 60 E., sec. 1, lot 9.

Description of Proposed Action:

Description: Crown Castle (CC) needs access to their communication site located on private lands. CC will install a secure access gate at the end of North Jones Blvd with a daisy chain of locks to provide access to CC, Bureau of Land Management (BLM), Clark County (if necessary) and City of Las Vegas (if necessary). The road will be approximately 30 feet (ft) wide and 550 ft in length for a total of .378 acres. The road will start at the end of N. Jones Blvd and run east to La Concha Drive. There is no new disturbance associated with this project. The road will be a dirt road and no improvements to the land will be made.

Land Use Plan Conformance

Land Use Plan Name:

Las Vegas Resource Management Plan and Final Environmental Impact Statement (RMP), and the Record of Decision for the Approved Las Vegas Resource Management Plan and Final Environmental Impact Statement.

Date Approved/Amended:

RMP dated October 5, 1998.

The proposed action is in conformance with the LUP, even though it is not specifically provided for, because it is clearly consistent with the following LUP decision(s) (objectives, terms, and conditions) :

The proposed action is in conformance with the applicable RMP because it is clearly consistent with the following LUP decision(s):

ROW Management. Objective: RW-1. "Meet public demand and reduce impacts to sensitive resources by providing an orderly system of development for transportation, including legal access to private inholdings, communications, flood control, major utility transmission lines, and related facilities."

Management Direction. Objective: RW-1-h. "All public land within the planning area, excepted as stated in RW1-c through 1-g, are available at the discretion of the agency for rights-of-way under the authority of the Federal Land Policy and Management Act."

Compliance with NEPA:

This is a CX per 516 DM 11.9, NEPA Handbook, Appendix 4 E. (16): "Acquisition of easements for existing road or issuance of leases, permits, or rights-of-way for the use of existing facilities, improvements, or sites for the same or similar purposes."

This is a CX per 516 DM 11.9, NEPA Handbook, Appendix 4 E. (17): "Grant of a short rights-of-way for utility service or terminal access roads to an individual residence, outbuilding, or water well."

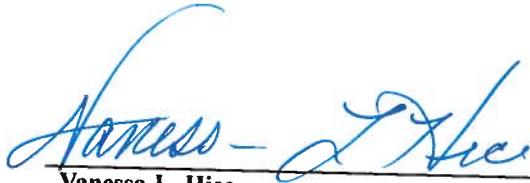
This categorical exclusion is appropriate in this situation because there are no extraordinary circumstances potentially having effects that may significantly affect the environment. The proposed action has been reviewed, and none of the extraordinary circumstances described in 516 DM 2 apply.

Comments providing substantive new information relevant to the analysis and mitigation measures have been incorporated into the Exhibit A stipulations which are attached to this document.

I have reviewed the plan conformance statement and have determined that the proposed action is in conformance with the approved land use plan and that no further environmental analysis is required.

Approval and Contact Information

Authorizing Official:



Vanessa L. Hice
Assistant Field Manager
Division of Lands

4/3/14
Date

Contact Person:

Jamie L. Moeini, Realty Specialist

Las Vegas Field Office
4701 N. Torrey Pines Drive
Las Vegas, Nevada 89130
phone: 702-515-5000

Exhibit A

Stipulations for N-89670

1.0 Special Stipulations

- 1.1. Bureau personnel or other governmental agencies will be granted access into the area at all times in order to access public lands managed by the Bureau of Land Management (BLM). The Holder will notify the BLM in writing immediately of the lock code for the gate and will be kept apprised of the code at all times.

2.0 General Stipulations

- 2.1. The right-of-way (ROW) is issued subject to all valid existing rights.
- 2.2. No signs of advertising devices shall be placed on the premises or on adjacent public lands, except those posted by or at the direction of the authorized officer.
- 2.3. The ROW shall be maintained in a sanitary condition at all times. Waste materials at those sites shall be disposed of promptly at an approved waste disposal site. "Waste", as used in this paragraph, shall mean all discarded matter of any kind.
- 2.4. Holder shall mark the exterior boundaries of the ROW with stake and/or lath at 100 to 200 foot intervals. The intervals may be varied at the time of staking at the discretion of the Authorized Officer. The tops of the stakes and/or laths will be painted and the laths flagged in a distinctive color as determined by the Holder. Holder shall maintain all boundary stakes and/or laths in place until final cleanup and restoration is completed.
- 2.5. Holder shall conduct all activities associated with construction, operation, maintenance and termination of this ROW within its authorized limits.
- 2.6. Holder shall maintain the ROW in a safe, useable condition, as directed by the Authorized Officer. A regular maintenance program shall include, but is not limited to, soil stabilization.
- 2.7. Holder shall maintain copy of the authorization along with stipulations on construction site at all times. In the event that the public land underlying this ROW, encompassed in this grant, or a portion thereof, is conveyed out of Federal ownership and administration of the ROW or the land underlying the ROW is not being reserved to the United States in the patent/deed and/or the ROW is not within a ROW corridor being reserved to the United States in the patent/deed; the United States waives any right it has to administer the ROW, or portion thereof, within the conveyed land under Federal laws, statutes, and regulations, including the regulations at 43 CFR Part [2800][2880], including any rights to have the holder apply to the Bureau of Land Management (BLM) for amendments, modifications, or assignments and for BLM to approve or recognize such amendments, modifications, or assignments. At the time of conveyance, the patentee/grantee, and their successors and assigns, shall succeed to the interests of the United States in all matters relating to the ROW, or portion thereof, within the conveyed land and shall be subject to applicable State and local government laws, statutes, and ordinances. After conveyance, any disputes concerning compliance with the use and the terms and conditions of the ROW shall be considered a civil matter between the patentee/grantee and the ROW Holder.

- 2.8. Within 90 days of construction completion, the Holder shall provide the Authorized Officer with data in a format compatible with the Bureau's Arc-Info Geographic Information System to accurately locate and identify the ROW:

Acceptable data formats are:

Corrected Global Positioning System files with sub-meter accuracy or better, in UTM NAD 83; Zone 11;
ARCGIS export files on a CD ROM, shapefile, geodatabase.

Data may be submitted in any of the following formats:

ARCGIS interchange, shapefile or geodatabase format.

CD ROM in compressed or uncompressed format.

All data shall include metadata for each coverage, and conform to the Content Standards for Digital Geospatial Metadata Federal Geographic Data Committee standards. Contact the GIS Department at (702) 515-5000.

3.0 Air Quality

- 3.1. The Holder shall not violate applicable air standards or related facility siting standards established by or pursuant to applicable federal, state, or local laws or regulations. The Holder shall be responsible for dust abatement within the limits of the ROW and is responsible for obtaining all necessary permits from appropriate authorities for acceptable dust abatement and control methods (e.g., water, chemicals). The Holder shall be solely responsible for all violations of any air quality permit, law or regulation, as a result of its action, inaction, use or occupancy of the ROW.

Notwithstanding whether a violation of any air quality permit, law or regulation results, the Holder will cooperate with the Authorized Officer in implementing and maintaining reasonable and appropriate dust control methods in conformance with law and appropriate to the circumstances at the sole cost of the Holder.

- 3.2. Ensure dust control permit is obtained through the Clark County Department of Air Quality and Environmental Management (DAQEM) for all soil disturbing activity of .25 acres or greater. All dust control permit conditions and stipulations must be in compliance for the duration of the project activity. At present, water is the only means by which BLM authorizes dust suppression for construction activities, as well as for operations and maintenance of public land activities known to generate fugitive dust.
- 3.3. Prior to relinquishment, abandonment, or termination of this ROW, the Holder shall apply reasonable and appropriate dust abatement and control measures to all disturbed areas. The abatement and measures shall be designed to be effective over the long-term (e.g., rock mulch or other means) and acceptable to the Authorized Officer.
- 3.4. During excavation, backfilling, and contouring, the disturbed soil should be wetted sufficiently in order to effectively reduce airborne dust and reduce soil erosion.
- 3.5. Fuels/Fire Restrictions: Compliance with fire restrictions current at time of project implementation will mitigate any risks introduced by the proposed actions. Specific, noncompliant activities may be waived on a case by case basis by a line officer after review and approval by the Fire Management Officer.

4.0 Cultural

- 4.1. Any cultural and/or paleontological resources (historic or prehistoric site or object) discovered by the Holder, or any person working on his behalf on public or Federal lands shall be immediately reported to the Authorized Officer. Holder shall suspend all operations in the immediate area of such discovery until written authorization to proceed is issued by the Authorized Officer. An evaluation of the discovery will be made by the Authorized Officer to determine appropriate actions to prevent the loss of significant cultural or scientific values. The Holder will be responsible for the cost of evaluation. Any decision regarding suitable mitigation measures will be made by the Authorized Officer after consulting with the Holder. Holder shall be responsible for the resultant mitigation costs.

5.0 Hazardous Material/Pesticides/Liability

- 5.1. No hazardous material, substance, or hazardous waste, (as these terms are defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. 9601, *et seq.*, or the Resource Conservation and Recovery Act, 42 U.S.C. 6901, *et seq.*) shall be used, produced, transported, released, disposed of, or stored within the ROW area at any time by the Holder. The Holder shall immediately report any release of hazardous substances (leaks, spills, etc.) caused by the Holder or third parties in excess of the reportable quantity as required by federal, state, or local laws and regulations. A copy of any report required or requested by any federal, state or local government agency as a result of a reportable release or spill of any hazardous substances shall be furnished to the Authorized Officer concurrent with the filing of the reports to the involved federal, state or local government agency.
- 5.2. The Holder shall immediately notify the Authorized Officer of any release of hazardous substances, toxic substances, or hazardous waste on or near the ROW potentially affecting the ROW of which the Holder is aware.
- 5.3. As required by law, Holder shall have responsibility for and shall take all action(s) necessary to fully remediate and address the hazardous substance(s) on or emanating from the ROW.
- 5.4. Use of pesticides shall comply with the applicable Federal and state laws. Pesticides shall be used only in accordance with their registered uses and within limitations imposed by the Secretary of the Interior. Prior to the use of pesticides, the Holder shall obtain from the Authorized Officer written approval of a plan showing the type and quantity of material to be used, pest(s) to be controlled, method of application, location of storage and disposal of containers and any other information deemed necessary by the Authorized Officer.

The plan shall be submitted no later than December 1 of any calendar year that covers the proposed activities for the next fiscal year.

Pesticides shall not be permanently stored on public lands authorized for use under this ROW.

- 5.5. The Holder shall comply with all applicable local, state, and federal air, water, hazardous substance, solid waste, or other environmental laws and regulations, existing or hereafter enacted or promulgated. To the full extent permissible by law, the Holder agrees to indemnify and hold harmless, within the limits, if any, established by state law (as state law exists on the

effective date of the ROW), the United States against any liability arising from the Holder's use or occupancy of the ROW, regardless of whether the Holder has actually developed or caused development to occur on the ROW, from the time of the issuance of this ROW to the Holder, and during the term of this ROW. This agreement to indemnify and hold harmless the United States against any liability shall apply without regard to whether the liability is caused by the Holder, its agents, contractors, or third parties. If the liability is caused by third parties, the Holder will pursue legal remedies against such third parties as if the Holder were the fee owner of the ROW.

Notwithstanding any limits to the Holder's ability to indemnify and hold harmless the United States which may exist under state law, the Holder agrees to bear all responsibility (financial or other) for any and all liability or responsibility of any kind or nature assessed against the United States arising from the Holder's use or occupancy of the right-of way regardless of whether the Holder has actually developed or caused development to occur on the ROW from the time of the issuance of this ROW to the Holder and during the term of this ROW.

- 5.6. No mining claims or mining operations present. If excavation that produces mineral materials with the ROW is necessary, the mineral materials must be used with the ROW or stockpiled on site for disposal by the BLM. If mineral materials are to be stockpiled on site for a future disposal, specific BLM use authorization in the form of a contract, free use permit or material site right-of-way will be necessary before the stockpiled mineral materials can be removed from the ROW.

6.0 Survey Monuments

- 6.1. Holder shall protect all survey monuments found within the authorization area. Survey monuments include, but are not limited to, General Land Office and Bureau of Land Management Cadastral Survey Corners, reference corners, witness points, U.S. Coast and Geodetic Survey benchmarks and triangulation stations, military control monuments, and recognizable civil (both public and private) survey monuments. If any of the above are to be disturbed during operations, the holder shall secure the services of a Professional Land Surveyor or Bureau cadastral surveyor to perpetuate the disturbed monuments and references using surveying procedures found in the Manual of Instructions for the Survey of the Public Lands of the United States and Nevada Revised Statutes, Chapter 329, Perpetuation of Corners. The holder shall record such survey in the appropriate county and send a copy to the authorized officer. If the Bureau cadastral surveyors or other Federal surveyors are used to restore the disturbed survey monuments, the holder shall be responsible for the survey cost.

7.0 Visual Resources

- 7.1. While the ROW will be in VRM III, the road already exists and near other developments. Thus there will be no new impacts to visual resources.

8.0 Vegetation/Noxious Weeds/Land surface Treatment/Soil/Water/Riparian

- 8.1. Cactus and yucca are considered government property and regulated under the BLM Nevada forestry program. Because the proposed action is limited to existing disturbed areas, no new impacts to cactus and yucca and other forestry products are expected.
- 8.2. The Holder shall be responsible for weed control on disturbed areas within the limits of the ROW. The Holder is responsible for consultation with the Authorized Officer and/or local authorities for acceptable weed control methods within limits imposed in the ROW

stipulations. This proposed action will follow the guidelines of the LVFO Noxious Weed Plan that was approved on December 18, 2006. The following are project specific stipulations that will attempt to control Nevada listed noxious weeds on this project.

- 8.3. The project proponent shall limit the size of any vegetation and/or ground disturbance to the absolute minimum necessary to perform the activity safely and as designed. The project proponent will avoid creating soil conditions that promote weed germination and establishment.

Locate equipment storage, machine and vehicle parking in areas that are relatively weed-free. The project proponent shall avoid or minimize all types of travel through weed-infested areas.

BLM or the project proponent shall determine equipment-cleaning sites (if equipment is infested with weed seeds, plant parts or mud and dirt). Project related equipment and machinery (this especially includes the nooks and crannies of undercarriages) will be cleaned using compressed air or water to remove mud, dirt and plant parts before moving into and from relatively weed-free areas. Seeds and plant parts will be collected, bagged and deposited in dumpsters destined for local landfills.

Project workers shall inspect, remove, and dispose of weed seed and plant parts found on their clothing and personal equipment. bag the product and dispose of in a dumpster for deposit in local landfills.

- 8.4. Land surface treatment for areas previously disturbed: Following excavation, trenches will be backfilled with the excavated soil. The soil will be distributed and contoured evenly over the surface of the disturbed area. The soil surface will be left rough to help reduce potential wind erosion.
- 8.5. Land surface treatment for areas previously undisturbed: Strip the top three to six inches of soil material with associated plant material over all surfaces to be disturbed by construction. Stockpile this material along the course of construction will be salvaged and transplanted out of harm's way but still within the right of way. At the conclusion, including trench backfilling and compaction, replace the stockpiled soil with plant debris uniformly back on the surface of the disturbed area.
- 8.6. Soil/Water/Riparian: If work is to occur in Ephemeral channels, need to consult with Army Corp of Engineers (ACOE) and Nevada Department of Environmental Protection (NDEP). If drilling boreholes, holder needs to follow Nevada Administrative Code (NAC) protocols for drilling. Consult with ACOE to make sure you do not need a 404 permit.

9.0 Fish and Wildlife Excluding Federally Listed Species

- 9.1. Wildlife species in the general area include small mammals, rodents, birds and reptiles. Although there is no new surface disturbance associated with this project, direct impacts associated with mortality of wildlife from vehicular traffic may result during use of the project area if individuals wander into the area. Wildlife species in the general area are common and widely distributed throughout the area and the loss of some individuals would have a negligible impact on populations of the species throughout the region.

10.0 Migratory Birds

- 10.1. As there will be no new surface disturbance associated with the proposed actions, there will be no impact on migratory birds.

11.0 Threatened and Endangered Species

- 11.1. The above proposed action has a no affect determination for the threatened desert tortoise (*Gopherus agassizii*). This project will have no affect on any other federally listed species or designated critical habitat.

- 11.2. The proposed project footprint is completely disturbed, denuded of vegetation, and no new disturbance will occur. Historical survey data indicate that there are live tortoises and multiple tortoise burrows in the adjacent undisturbed habitat. The ROW is simply to allow access on an existing dirt road and does not include an improvements or maintenance to the existing road. **Compliance with the special stipulations below will help to ensure that no effect or adverse impacts to desert tortoises occur.**

- 1) Should a desert tortoise enter the area of activity, all activity shall cease until such time as the animal has left the area of its own accord.
- 2) Participants will be instructed to check underneath all vehicles before moving them as tortoises often take cover underneath parked vehicles. If a tortoise is present, the vehicle is to remain in place until such time as the animal has moved out on its own.
- 3) A speed limit of 25 miles per hour shall be required for all vehicles travelling on the existing access roads and the proposed access road.
- 4) Workers will be provided educational information on the desert tortoise which included the legal protection and consequences for the violations of the Endangered Species Act (see enclosed fact sheet).

The Threatened Desert Tortoise

Life History

The desert tortoise is the largest reptile and the only wild land tortoise found in the southwestern United States. The tortoise occurs in southern Nevada, western Arizona, southeastern California, and northwestern Mexico. Desert tortoises are typically found in creosote bush, cactus and shad scale scrub, and Joshua tree woodland habitats below 5000' elevation.

Tortoise populations are patchily distributed and densities range from a few per square mile to 200 per square mile. A tortoise will live in the same general area of less than one square mile during its lifespan of 50 to 100 years. This slow-moving desert reptile ranges in size from 2 to 15 inches long and is soil colored. Because of their color and shape, tortoises can be very difficult to see.

There are several clues that can be used to tell male and female tortoises apart. However, only tortoises greater than seven inches long can be sexed reliably. Males tend to be larger than females, have a longer tail, have longer upward curving gular horns, have larger chin glands, and have a concave plastron (bottom portion of shell).



Tortoises are well adapted to their desert environment and spend up to 98% of their time in burrows they dig. Burrows are crescent shaped and are most often found at the base of desert shrubs or in wash banks. A

tortoise may excavate and use many burrows during the year. Some burrows are used for only a short period of time and others may be used for several years. Some researchers believe that some winter dens on the Beaver Dam Slope in Utah may be 5000 years old. Many mammals, birds, reptiles, and invertebrates utilize tortoise burrows. Burrows and tortoises are most often found on valley floors and slopes, but they may also be found on the less precipitous slopes and ridges of desert mountain ranges.

Besides burrows, and remains; another method that biologists use to determine if tortoises exist in an area is the presence of scat (feces). Fresh scat is dark brown or black, but turns gray as it weathers. Scat length varies, from one half to four inches, depending on the size of the tortoise. Scats usually contain coarse plant fibers.

Tortoises are inactive from mid November until February. The activity period for desert tortoises is from March until late October when they usually spend part of each day above ground. Tortoises are especially active during warm days when it is overcast or raining, when they seek water that collects in natural depressions or in depressions the tortoises dig themselves. Available drinking water is essential to tortoise survival. The diet of tortoises, which are vegetarians, includes a wide variety of herbs, grasses, cacti, and flowers. Since droughts are common in the desert that tortoises inhabit, they rely on the erratic years of good rainfall and the ensuing growth of palatable plants.



Sexual maturity for tortoises occurs at 15-20 years of age. Breeding occurs in March and April and egg laying is from May to July. Nests are almost always located at the entrance of burrows. Clutches 1 to 14 eggs and a mature female may lay 0 to 3 clutches annually. The eggs are covered with soil and hatch after 80 to 130 days in August or September.

Predators are usually only a problem for young tortoises. Predation is the greatest cause of mortality for hatchlings. Eggs are eaten by Gila monsters, foxes, coyotes, snakes, and badgers. The shell of juvenile tortoises does not harden for five or more years and young tortoises may fall prey to ravens, hawks, eagles, coyotes, foxes, bobcats, badgers, skunks, and feral dogs and cats. Up to 200 young tortoise carcasses have been found under raven perches and nests. While successful predation on adults is rare; coyotes, foxes, bobcats, eagles, and feral dogs have been known to prey on adult tortoises. Habitat quality can affect predation in certain habitats.

Research

The Bureau of Land Management will be actively involved ongoing research projects that are addressing various aspects of tortoise management and physiology. Research is being conducted on disease, livestock grazing, predator-prey relationships, genetics, tortoise translocation/relocation, and habitat restoration.

Legal Status

The desert tortoise (*Gopherus agassizii*) in the Mojave Desert was federally listed under the Endangered Species Act of 1973 as a threatened species on April 2, 1990. The tortoise was listed because of direct losses and threats to tortoise populations and habitat. Desert tortoises are directly impacted by increased raven predation on juveniles, collection by humans, vandalism, losses on roads and to off-highway vehicle (OHV) activities, and Upper Respiratory Tract Disease (URTD). Tortoise habitat is lost directly to urbanization, agriculture, road construction, military activities, and other uses. OHV use, rights-of-way, and grazing degrade habitat. All of these activities fragment tortoise habitat, which may reduce a tortoise population below the level necessary to maintain a minimum viable population.

The U.S. Endangered Species Act makes it illegal to harass, collect, or harm tortoises and provides for penalties of up to \$50,000 in fines and one year in prison for each count. State laws and Fish and Game Codes also afford protection to the desert tortoise.



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Tortoises in captivity prior to the initial listing of August 4, 1989 are not protected by the Act. If you are interested in having a pet tortoise, you may obtain one from an adoption group or from someone that has acquired their pet legally and gifted them to you. Tortoises can offer a unique alternative to more traditional family pets but please do not turn them loose or allow your tortoises to breed.



Handle all tortoise carefully and only if authorized to do so! Tortoises can be injured and can die from improper handling. Do not approach tortoises unless absolutely necessary, as your presence can induce stress in the animal. When you must approach a tortoise, move slowly and approach from the rear of the animal. Pick up the tortoise gently and keep it level at all times. When handling large tortoises, grasp the animal with both hands, one at each side of the animal. When moving tortoises longer distances, a plastic tote or cardboard box should be used. Containers should be thoroughly cleaned between tortoises or only used for one tortoise. All personnel handling tortoises will wear surgical type gloves to inhibit the transmission of diseases among tortoises. Not more than one tortoise can be handled

*Remember to always check under
your vehicles!!*

Southern Nevada District

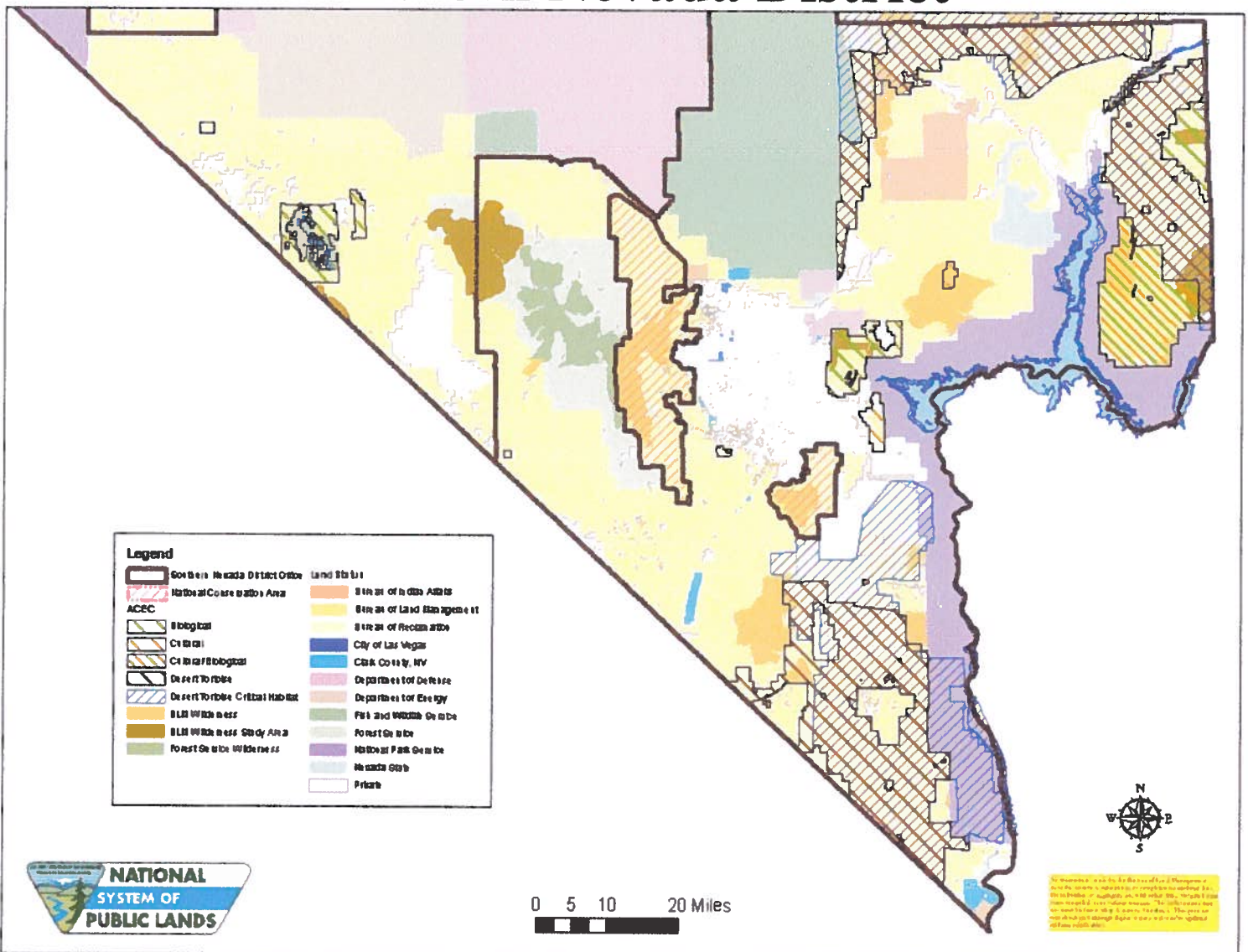


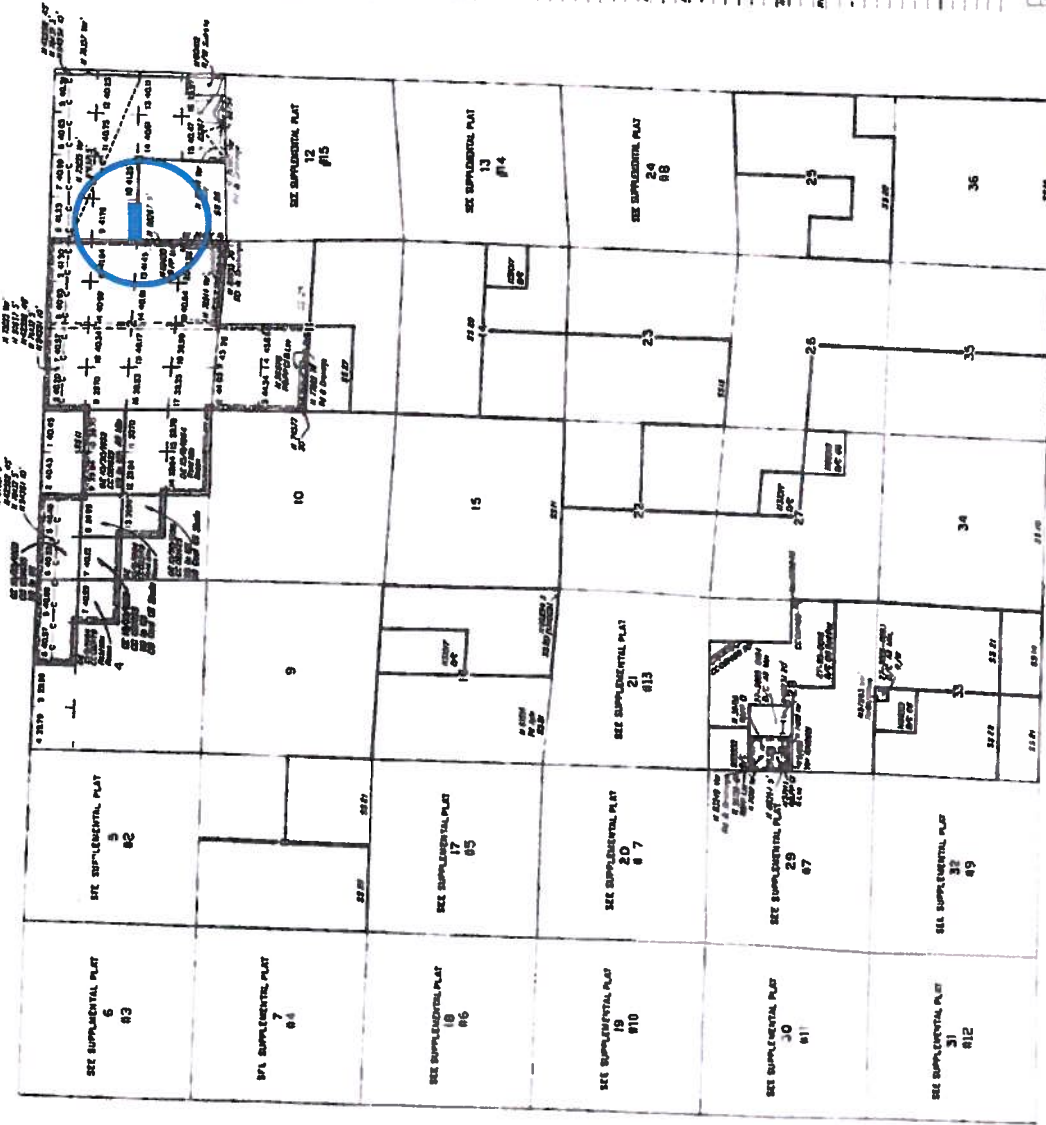


Exhibit B

N-89670

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TOWNSHIP 19 SOUTH RANGE 60 EAST OF THE MOUNT DIABLO MERIDIAN, NEVADA
LAS VEGAS GR DIST



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STATUS OF PUBLIC DOMAIN
LAND AND MINERAL TITLES

MT PLAT

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